

**NOTICE OF FINAL RULEMAKING**  
**TITLE 12. NATURAL RESOURCES**  
**CHAPTER 4. GAME AND FISH COMMISSION**

**PREAMBLE**

1. 

<b><u>Sections Affected</u></b>	<b><u>Rulemaking Action</u></b>
R12-4-701	Amend
R12-4-702	Amend
R12-4-703	Amend
R12-4-704	Amend
R12-4-705	Amend
R12-4-706	Amend
R12-4-707	Amend
R12-4-708	Amend
R12-4-709	Amend
R12-4-710	Amend
R12-4-711	Amend
R12-4-712	Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 17-231

Implementing statutes: A.R.S. Title 17, Chapter 2, Article 6
3. **The effective date of the rules:**

The Commission anticipates the rules will become effective February 2, 2008, sixty days after the Council approves them and submits them to the Secretary of State's Office.
4. **A list of all previous notices appearing in the Register addressing the rules:**

Notice of Docket Opening: Volume 13, A.A.R. 1747, May 18, 2007; and

Notice of Proposed Rulemaking: Volume 13, A.A.R. 1693, May 18, 2007



5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Jennifer Stewart, Rules & Risk Manager

Address: Arizona Game and Fish Department  
5000 West Carefree Hwy – DORR  
Phoenix, AZ 85086

Telephone: (623) 236-7390

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6. **An explanation of the rules, including the agency's reasons for initiating the rules :**

The Arizona Game and Fish Department is amending rules in Title 12, Chapter 4, Article 7 in accordance with the preceding 2006 five-year-review report approved by the Governor's Regulatory Review Council on March 7, 2006.

The Department is amending R12-4-701 to add a definition for the term "extension." Although the term is used in this article, no definition exists, which has affected the article's clarity and understandability. A definition for "extension" is significant because special provisions apply to a Heritage Grant project and a grant recipient if the project's contract expiration date extends beyond the approved project period. The Department is also adding a definition for the term "term of public use." Additional amendments are being made in rule that necessitate the inclusion of a definition, particularly to clarify reporting requirements on Heritage Grant projects.

The Department is also providing a definition for "eligible applicant." The definition will allow non-governmental nonprofit organizations to apply for Heritage Grants. Additional amendments will be made throughout the article to make other rules consistent with the definition.



In the past, the Department has had conflict with the regulated community over a participant's ability to use the time committed to a project by a permanent employee for in-kind match. Some participants apply for and obtain Heritage Grant dollars as starter money for a project, and then apply for additional grants and revenue sources to match those grants. Contributions that qualify for matching funds may also include hours an employee spends working on a project. The intent of R12-4-702 and its authorizing statutes is not to limit the revenue that may be used to complete a project designed to conserve wildlife, but to ensure that Heritage Grants are used wisely and responsibly for a project and only for that project. Consequently, the Department is amending subsection (J) of the rule to authorize a participant to use a permanent employee's time as in-kind match, but only for the project for which the application was submitted. The amendment would only allow a permanent employee's time to be used as a match so as to prevent a participant from inflating hours.

The Department is also amending R12-4-702 by adding a new subsection (M) that is identical to subsection (D) in R12-4-705. This subsection describes projects that are ineligible for Heritage Grants, and is more suited for the rule that prescribes general requirements for the application and issuance of grants.

The Department is amending R12-4-704 to remove outdated or inapplicable information. The Department is deleting the communities of Green Valley, Flowing Wells, Sun City, and Sun City West from subsection (B)(2) because at the time this rule was written these communities were, under A.R.S. § 17-296(6), "in close proximity to an urban area that [received] significant impact from human use." Due to expanding development, these communities are now covered by the remaining two criteria: an individual may still apply for Heritage Grants to support projects in these areas because they are either "within the corporate limits of an incorporated city or town," under subsection (B)(1), or "within five miles, in straight distance, of the boundary of an incorporated area," under subsection (B)(3). The Department is also amending subsection (C) to replace "in harmony with urban environments" with the more appropriate "consistent with urban environments."



The Department is also amending R12-4-705 to clarify that public access grants issued by the Game and Fish Heritage Fund are intended for improving public access to recreational opportunities that are related to wildlife. The Department receives numerous grant proposals for bike trails, hiking trails, and other projects that are not directly related to wildlife. Alternatives to Heritage Fund Grants exist for these types of projects, such as those grants distributed through other agencies like the State Parks Department, but these projects are not consistent with the Department's responsibilities of wildlife management, watercraft recreation, and off-highway vehicle use. Also, as stated previously, subsection (D) will be deleted and moved to R12-4-702.

Under this rulemaking, the Department is amending R12-4-706 to remove the \$10,000 limit on grants for environmental education projects. The Department recognizes the significance of these grants in establishing a sense of understanding and ownership in the state's wildlife and does not want to limit valid projects that would contribute to this.

The Department is amending R12-4-707 to prescribe additional eligibility requirements for schoolyard habitat grants. The Department is also adding items under subsection (B) to closely emulate applicable content in subsection (B) of R12-4-706. The Department will require that an eligible project develop awareness, appreciation, and understanding of the state's wildlife and its environment; use Arizona wildlife as its focus; and have an impact on Arizona schools and school children. The Department is deviating from the preceding five-year review by not creating a grant ceiling. The Department believes that a ceiling is not necessary to preclude submission of impractical projects and that the regular application review process will eliminate them from consideration.

The Department is amending R12-4-709(F)(10) to require non-profit organizations applying for heritage grants to provide proof of their exemption. The department is allowing non-profit organizations to apply for Heritage Grant funds, and requiring proof of non-profit status will ensure that the applicant is in fact a non-profit and as a result eligible to apply for Heritage Grant funds.



The Department is amending R12-4-711(2) and (6) to remove a violation of state law as grounds for recovery of Heritage Funds. A violation of state law could be broadly interpreted to include violations that have no bearing or relevance to a grant participant's qualifications or required duties for completion. The Department's intent behind these provisions is not to exclude those individuals who violate state law in a manner unrelated to the grant agreement. Instead, "violation of state law" will be replaced with "material breach of contract" as grounds for recovery.

Finally, the Department is amending R12-4-712 to ensure that a project participant finishes post-completion reporting after a project is done. During a project's development, the Department is not always aware if progress is being made. If a problem occurs that stalls or delays a project, it may result in a waste of Heritage dollars or a project that is incomplete. In either event, for the sake of the completion of the project, the Department is amending the rule to state that during the project period, a participant shall submit a project status report within 30 days after the end of the mid-year reporting period (ending June 30) and within 30 days after the end of the end-of-the-year reporting period (ending December 31). The Department is also making a stronger effort to ensure that these projects are maintained after they are completed for the period of time for which they were intended to be used. The Department is amending the rule to place a post-completion obligation on the participant, and require that the participant certify compliance with the participant agreement each year until the end of the term of public use stated in the grant application. To further facilitate compliance, the Department is also amending the rule to require that a participant complete a post-completion report for each year until the end of the term of public use, and to amend subsection (D), formerly (C), to give the Department maximum flexibility to conduct audits to ensure post-completion reporting. Lastly, the Department is amending this subsection to allow electronic copies to substitute for original records, rather than microfilm copies due to the obsolescence of the technology.

The Department is not substantively amending R12-4-703, R12-4-708, or R12-4-710. Additional amendments will be made to make rule language consistent with APA requirements.



7. **A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The agency did not rely on any study in its evaluation of or justification for the rules.

8. **A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

9. **The summary of the economic, small business, and consumer impact:**

The rulemaking will primarily affect applicants for Heritage Grants and the Department. The rulemaking will not have a significant impact to other political subdivisions, businesses, or employees.

The rulemaking will not affect state revenues. The Department has determined that there are no alternative means of achieving the objectives of the rulemaking.

10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

In the Notice of Proposed Rulemaking, the new definition for “eligible applicant” in R12-4-701 made reference to projects in extension under R12-4-905(6). This was a typo, and the intent was to refer to R12-4-711(4). In the final rules the Department has corrected the cross reference. There are no substantial substantive changes between the proposed rules and the final rules. Where applicable the Department also made changes necessary for internal consistency within the Article.

11. **A summary of the comments made regarding the rules and the agency response to them:**

The Department received one written comment regarding the rules.

**Written Comment:** Don’t delete the word “and” within the first sentence of R12-4-712(D).

**Agency Response:** The Department agrees that deleting “and” in the first sentence of R12-4-712(D) would make the sentence grammatically incorrect. Therefore, the Department will not delete it.

12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable



13. **Incorporations by reference and their location in the rules:**

None

14. **Were the rules previously made as emergency rules?:**

No

15. **The full text of the rules follows:**



## **CHAPTER 4. GAME AND FISH COMMISSION**

### **ARTICLE 7. HERITAGE GRANTS**

#### Sections:

- R12-4-701. Heritage Grant Definitions
- R12-4-702. General Provisions
- R12-4-703. Review ~~and Modification~~ of Proposals
- R12-4-704. Urban Wildlife and Urban Wildlife Habitat Grants
- R12-4-705. Public Access Grants
- R12-4-706. Environmental Education Grants
- R12-4-707. Schoolyard Habitat Grants
- R12-4-708. IIAPM: Grants for Identification, Inventory, Acquisition, Protection, and Management of Sensitive  
Habitat
- R12-4-709. Grant Applications
- R12-4-710. State Historic Preservation Office Certification
- R12-4-711. Grant-in-aid Participant Agreements
- R12-4-712. Reporting and Record Requirements



## ARTICLE 7. HERITAGE GRANTS

### R12-4-701. Heritage Grant Definitions

In addition to the definitions provided in A.R.S. §§ 17-101 and 17-296, the following definitions apply to this Article:

1. "Administrative subunit" means the branch, department, division, section, school, or other similar divisional entity of ~~a public agency~~ an eligible applicant where a participant contact is directly employed, for example, an individual school, but not the entire school district; an individual field office or project office, but not the entire agency; or an individual administrative department, but not the entire city government.
2. "Approved application" means a participant's application including any changes, exceptions, deletions, or additions made by the Department before approval.
3. "Commission" means the Game and Fish Commission.
4. "Department" means the Game and Fish Department.
5. "Eligible applicant" means any public agency or non-profit organization exempt from federal income taxation under Section 501(c) of the Internal Revenue Code that has met the applicable requirements of this Article and not obtained an extension of the project period under R12-4-711(4).
6. "Extension" means a contract expiration date extended beyond the approved project period.
- ~~5-7.~~ "Facilities" means capital improvements.
- ~~6-8.~~ "Fund" means a granting source from the Game and Fish Heritage Fund, under A.R.S. § 17-297.
- ~~7-9.~~ "Grant effective date" means the date the Director of the ~~Arizona Game and Fish~~ Department signs the Grant-in-Aid Participant Agreement.
- ~~8-10.~~ "Grant Prioritization Process" means a document approved by the ~~Game and Fish~~ Commission based upon the Department mission statement, strategic plans, and current guiding statements that defines the Department's priorities. This document is also used for prioritizing grant applications.
- ~~9-11.~~ "Heritage Grant" means ~~an Arizona Game and Fish~~ a Commission Heritage Fund ~~Grant~~ grant.
- ~~10-12.~~ "Participant" means an eligible applicant that has been awarded a grant from the fund.



- ~~11-~~ 13. "Participant contact" means an eligible applicant's employee who is responsible for administering a Heritage Grant funded project.
- ~~12-~~ 14. "Project" means an activity, or series of related activities, which is described in the specific project scope of work and which results in specific products or services.
- ~~13-~~ 15. "Project period" means the time during which all approved work and related expenditures associated with an approved project are to be accomplished by the participant.
- ~~14-~~ 16. "Public agency" means the federal government or any federal department or agency, an Indian tribe, this state, all departments, agencies, boards, and commissions of this state, counties, school districts, cities, towns, all municipal corporations, and any other political subdivision of this state.
- ~~15-~~ 17. "Specific scope of work" means the units of work to be accomplished by an approved project.
18. "Term of public use" means the time period during which the project or facility is expected to be maintained for public use.

#### **R12-4-702. General Provisions**

- A. The application deadline is the last working day of November each year and funds become available July 1 of the following year. The Department shall ensure that the exact time and date for the application deadline and the exact application submission location are designated in the ~~Arizona Game and Fish~~ Department's "Grant Application Manual." The Department shall ensure that the "Heritage Grant Application Manual," all application forms and instructions, the Grant Prioritization Process, and any annualized information on project emphasis for each fund are available from the Department's Funds Planning Section within the Phoenix office.
- B. ~~Applicants shall be public agencies~~ An eligible applicant, as defined in R12-4-701, may apply for Heritage Grants under this Article. Eligible applicants ~~and~~ shall apply for Heritage ~~grants~~ Grants in accordance with A.R.S. §§ 17-296, 17-297, 17-298, and Commission rules within 12 A.A.C. 4, Article 7, to ~~be eligible for~~ receive consideration. An eligible applicant who has failed to comply with the rules or conditions of a Grant-in-Aid Participant Agreement ~~is not eligible~~ shall not be considered for further ~~grants~~ Heritage Grants until the eligible applicant's project is brought into compliance.



- C. The Department shall notify eligible applicants in writing of the results of their applications and announce ~~grant~~ Heritage Grant awards at a regularly scheduled open meeting of the ~~Game and Fish~~ Commission. An unsuccessful eligible applicant may submit an appeal regarding a grant award within 30 calendar days of the Commission meeting in accordance with A.R.S. Title 41, Chapter 6, Article 10, Uniform Administrative Appeals Procedures.
- D. Participants shall not begin projects described in an application until the grant effective date as defined in R12-4-701. A participant shall complete projects as specified in the Grant-in-Aid Participant Agreement. A participant shall submit records that substantiate the expenditure of Heritage Grant funds.
- E. A participant shall operate and maintain properties, facilities, equipment, and services funded by a Heritage ~~grant~~ Grant for the benefit of the public for the useful life of the project.
- F. ~~The~~ A participant shall control land or waters on which capital improvements are to be made, through fee title, lease, easement, or agreement. To be eligible for a Heritage Grant, the ~~applicant's~~ participant's management or control rights to the proposed site shall be ~~equivalent~~ proportional to the proposed investment in at least one of the following three respects:
1. The time remaining on the use agreement is a term sufficient, in the ~~judgment~~ sole discretion of the Department, to ensure a period of public use equal in value to the expenditure of awarded funds.
  2. The use agreement is not revocable at will by the property owner and provides for the option to renew by the managing agency.
  3. The eligible applicant ~~shows evidence~~ demonstrates that public access exists to the actual site where the project is proposed, unless the purpose of the project proposal is to specifically create access or limit access.
- G. A participant shall give public acknowledgment of grant assistance for the life of a project. If a project involves acquisition of property, development of public access, or renovation of a habitat site, the participant shall install a permanent sign describing the funding sources and dollar amounts of all funds. The participant may include the cost of this signage as part of the original project, but is responsible for maintenance or replacement of the sign as required. For other project types, the participant shall include funding acknowledgment on any publicly available or accessible products resulting from the project.



- H. The Department shall not accept project proposals for less than \$1000.
- I. A participant shall pay operation and maintenance costs for the project, including costs for reprinting of publications or other media.
- J. A participant shall not use ~~grant~~ Heritage Grant funds to pay compensation in excess of the legally established salary for any permanent public employee. A participant may use a permanent employee's time as in-kind match, but only for the project for which the application was submitted.
- K. If specified in the Grant-in-Aid Participant Agreement, including the Special Conditions attachment, the participant shall provide evidence of compliance with local, state, and federal law to the Department before the release of the initial ~~grant~~ Heritage Grant funds and before project implementation.
- L. If a participant contact has a Heritage Grant funded project in extension, the participant contact and the administrative subunit employing the participant contact ~~are not eligible~~ shall not be considered for further Heritage Grants until the project under extension is completed. This restriction does not apply to the participant contact's public agency as a whole, or to any other participant contact employed by the same public agency in any other administrative subunit, so long as the other participant contact does not have a Heritage Grant funded project in extension. For the purposes of this restriction, the Department shall determine what constitutes an administrative subunit.
- M. Ineligible projects are those projects not in compliance with this Article and those project types listed as examples of ineligible projects in the Heritage Grant Application Manual or other materials available from the Department's Funds Planning Section in the Phoenix Office.

#### **R12-4-703. Review of Proposals**

- A. Heritage Grant proposals are competitive and the Department shall make awards based on a proposed project's compatibility with the priorities of the ~~Game and Fish~~ Department and the project's feasibility, merit, and usefulness. The Department shall evaluate and rank all eligible proposals under the criteria established in this ~~Section~~ Article and the Department's Grant Prioritization Process as approved by the Commission and available from the Department's Funds Planning Section in the Phoenix office.



- B. The Department shall make funding of an awarded project contingent upon revision of the application if the Department determines that substantive changes are necessary for the successful completion of the project.

#### **R12-4-704. Urban Wildlife and Urban Wildlife Habitat Grants**

- A. *"Urban wildlife" means the wildlife that occurs within the limits of an incorporated area or in close proximity to an urban area that receives significant impact from human use. (A.R.S. § 17-296(6)).*
- B. ~~In order~~ In addition to complying with the requirements prescribed in R12-4-702, to be considered eligible for a an urban wildlife or urban wildlife habitat grant award, an eligible applicant shall ensure that a proposed project location meets one of the following criteria:
1. It is within the corporate limits of an incorporated city or town; or
  2. ~~It is within the communities of Green Valley, Flowing Wells, Sun City, or Sun City West;~~
  - 3- It is within five miles, in straight distance, of the boundary of an incorporated area ~~or one of the communities listed above.~~
- C. ~~In order~~ In addition to the requirements prescribed in subsection (B), to be considered eligible for an urban wildlife or urban wildlife habitat grant award, eligible applicants shall also ensure that proposed projects are designed to conserve, enhance, and establish wildlife habitats and populations ~~in harmony~~ consistent with urban environments, and increase public awareness of and support for urban wildlife resources.

#### **R12-4-705. Public Access Grants**

- A. "Public access" has the meaning prescribed in A.R.S. § 17-296(1).
- B. "Publicly held lands" means federal, public, and reserved lands, State Trust Lands, and other lands within Arizona that are owned, controlled, or managed by the United States, the state of Arizona, agencies, or political subdivisions of the state.
- C. ~~To be eligible for a public access grant award~~ In addition to complying with the requirements prescribed in R12-4-702, an eligible applicant shall ensure that a ~~proposed project~~ is designed to increase or maintain public access for recreational use that is related to wildlife, and is in cooperation with federal land managers, local and state governments, private landowners, and public users. An eligible applicant shall also ensure that a



proposed project is consistent with the Department's mission, and is designed to inform and educate the public about recreational use of publicly held lands and public access to those lands. ~~To be eligible for Heritage access grant funding, an~~ An eligible applicant's potential project shall provide for substantive wildlife-related recreational access opportunities. Examples include providing ~~new~~ access into an area where no access currently exists; re-establishing access into an area where access existed historically; maintaining, relocating, or enhancing existing access routes to better serve a specific segment of the population; or ~~relocating an existing access corridor~~ to avoid biologically sensitive areas.

~~D. Ineligible projects are those projects not in compliance with this Section and those project types listed as ineligible in the Heritage Grant Application Manual or other materials available from the Department's Funds Planning Section in the Phoenix office.~~

#### **R12-4-706. Environmental Education Grants**

A. "Environmental education" has the meaning prescribed in A.R.S. § 17-296(7).

B. In addition to complying with the requirements prescribed in R12-4-702, ~~To to be eligible considered~~ for an environmental education grant, an eligible applicant shall ensure that a project proposal is for no less than \$1,000 ~~and no more than \$10,000,~~ and that a proposed project is designed to:

1. Develop awareness, appreciation, and understanding of Arizona's wildlife and its environment and increase responsible actions toward wildlife;
2. Use Arizona wildlife as its focus and present wildlife issues in a balanced and fair manner; and
3. Have an impact on Arizona schools and school children.

#### **R12-4-707. Schoolyard Habitat Grants**

A. ~~In order~~ Schoolyard habitat grants are limited to public schools in Arizona. In addition to complying with the requirements prescribed in R12-4-702, to be eligible considered for a schoolyard habitat grant, ~~the applicant must be a public school within Arizona~~ shall apply through an eligible applicant, such as a school district.

B. ~~In order to~~ To be eligible considered for a schoolyard habitat grant, ~~applicants~~ an eligible applicant shall ensure that proposed projects are designed to:



1. Develop awareness, appreciation, and understanding of the state's wildlife and its environment;
- + 2. Encourage wildlife education on school sites or adjacent areas that allow wildlife education activities and encourage use by urban wildlife species;
3. Use Arizona wildlife as its focus;
- ~~2-~~ 4. Encourage native wildlife species, utilize a majority of native plant materials, and demonstrate water conservation techniques;
- ~~3-~~ 5. Actively use school children in the planning, development, and construction process; demonstrate long-term sustainability; and be fully integrated into the school curriculum; and
6. Have an impact on Arizona schools and school children.

**R12-4-708. IIAPM: Grants for Identification, Inventory, Acquisition, Protection, and Management of Sensitive Habitat**

- A. "Habitat protection" has the meaning prescribed in A.R.S. § 17-296(9).
- B. "Sensitive habitat" has the meaning prescribed in A.R.S. § 17-296(2).
- C. In addition to complying with the requirements prescribed in R12-4-702, To to be eligible considered for an IIAPM grant, an eligible applicant shall ensure that the proposed project is designed to:
  1. Preserve and enhance Arizona's natural biological diversity, and
  2. Incorporate at least one of the following elements:
    - a. Identification, inventory, acquisition, protection, or management of sensitive habitat, listed by the Department in accordance with subsection (D); or
    - b. Inventory, identification, protection, or management of species, ~~as addressed within A.R.S. § 17-296~~ listed by the Department in accordance with subsection (D).
- D. ~~Each year the Department shall provide a listing of habitat and species as defined within A.R.S. § 17-296 that it will consider in~~ In accordance with biological, conservation, and management status changes, the Department shall publish each year a list of sensitive habitat and species for the use of IIAPM grant applicants.

**R12-4-709. Grant Applications**



- A. To be ~~eligible~~ considered for a Heritage ~~grant~~ Grant, an eligible applicant shall submit a grant application in accordance with the schedule and requirements established by prescribed in R12-4-702.
- B. The eligible applicant shall submit a separate application for each funding source.
- C. The eligible applicant shall submit the original plus two copies of each application on paper sized 8 1/2" x 11" and shall ensure that the original and the copies are legible.
- D. The Department shall not accept facsimile or "faxed" copies of a grant application.
- E. The eligible applicant shall ensure that the "Application Checklist" lists all items included within the application. The eligible applicant shall check off an item if it is included within the application, and initial each item that is not applicable.
- F. The eligible applicant shall provide the following information on the grant application form:
1. Name of the eligible applicant;
  2. Any county and legislative district where the project will be developed or upon which the project will have impact;
  3. The official mailing address of the eligible applicant;
  4. The name, title, and telephone number of the individual who will have the day-to-day responsibility for the proposed project;
  5. Identification of the particular grant fund from which assistance is being requested, under R12-4-704, R12-4-705, R12-4-706, R12-4-707, or R12-4-708;
  6. The proposed project title incorporating the name of the site, if any, and the type of work to be accomplished;
  7. A clear and concise description of the scope and objective of the proposed project, the nature of what is to be accomplished, the methods to be used, and the desired result from the project;
  8. The beginning and ending dates for the project; ~~and~~
  9. The funding amounts that will be needed to accomplish the project, including the Heritage Grant funds requested, and evidence of secured matching funds or contributions- ; and
  10. If the eligible applicant is a non-profit organization exempt from federal income taxation under Section 501(c) of the Internal Revenue Code, documentation or other evidence of the exemption.



- G. ~~The person who on behalf of the applicant has~~ Only a person with authority to bind the eligible applicant to the terms of the Grant-in-Aid Participant Agreement shall sign the grant application form. The person signing the grant application form represents that the eligible applicant has authority to enter into agreements, accept funding, and fulfill the terms of the Grant-in-Aid Participant Agreement.
- H. The eligible applicant shall submit a map clearly identifying project locations or project proposal areas, and, if applicable, ~~the applicant shall also submit~~ a site plan and floor plan.
- I. The eligible applicant shall submit with the grant application the following information to provide evidence of control and tenure at the project site. The Department shall determine the appropriateness of the evidence of control and tenure as a part of the grant application review process:
1. If the project site is owned by the eligible applicant, a copy of the legal document showing title in the name of the eligible applicant and the legal description of the property;
  2. If the project site will be managed by the eligible applicant, a copy of the lease, special use permit, intergovernmental agreement, or other official instrument or documentation; or
  3. For research project proposals relating to sites not controlled by the eligible applicant, a copy of the permit or agreement allowing the research or, at a minimum, evidence of permission from the land manager allowing the research.
- J. The eligible applicant shall submit an estimated project cost sheet form with the following information:
1. Project title as designated on the application form;
  2. If applicable, pre-agreement costs requested;
  3. If applicable, all estimated development costs in order of priority of need, facilities to be constructed, unit measurements, number of items, and total costs;
  4. All land parcels to be acquired listed in priority order, with acreage involved and anticipated dates of acquisition;
  5. The cost, title, and name of personnel who would accomplish the project objectives and who would receive benefit from the grant; and
  6. The total cost for the entire project proposal with each of the following amounts listed separately:
    - a. Heritage ~~grant~~ Grant funds requested;



b. ~~Applicant~~ Eligible applicant contribution to the project, if applicable; and

c. Any other sources of funding.

K. The eligible applicant shall answer all questions relevant to the grant applied for and to the Grant Prioritization Process by which the Department evaluates and ranks proposals.

#### **R12-4-710. State Historic Preservation Office Certification**

The Department shall not release ~~grant~~ Heritage Grant funds until certification is received from the State Historic Preservation Officer in accordance with A.R.S. §§ 41-861 through 41-864, the State Preservation Act, which mandates that all state agencies consider the potential of activities or projects to impact significant cultural resources.

#### **R12-4-711. Grant-in-Aid Participant Agreements**

Before any transfer of funds, a participant shall agree to and sign a Grant-in-Aid Participant Agreement that includes the following minimum stipulations:

1. The participant shall use awarded ~~grant~~ Heritage Grant funds solely for eligible purposes of the funding program as defined by law and as approved by the Department. The participant shall not exceed the ~~grant~~ Heritage Grant allocation unless the parties amend the Grant-in-Aid Participant Agreement.
2. If both parties agree that all project costs shall be expended within the first quarter of the project period, the Department shall transfer the total amount of awarded grant funds to the participant within the first quarter of the project period. In all other cases, the Department shall transfer awarded grant funds, less 10 percent, to the participant within one year of the grant effective date. The Department shall transfer the final 10 percent less any adjustment for actual expenditures upon receipt of a written request and a certification of project completion from the participant, unless the participant ~~violates state law or~~ materially breaches the Grant-in-Aid Participant Agreement. The Department ~~has the authority under~~ shall include provisions in the Grant-in-Aid Participant Agreement that authorize the Department to perform completion inspections and reviews before release of final payment.



3. The participant shall deposit transferred ~~grant~~ Heritage Grant funds in a separate project account carrying the name and number of the project. The participant shall expend funds from the account only as authorized under the terms of the Grant-in-Aid Participant Agreement.
4. The participant may request changes to the terms, scope, conditions, or provisions of the Grant-in-Aid Participant Agreement by writing to the Department. Requests for extension beyond the approved project period shall be submitted by the participant no later than 30 days before the contract expiration date. The Department shall prepare in writing any approved amendments, which ~~must~~ shall be signed by both the participant and the Department to be valid.
5. Notwithstanding subsection (4), the Department shall issue an administrative extension to unilaterally extend the project period by no more than 90 days to perform completion inspections or to complete administrative work if completion inspections or administrative work cannot be completed within the time-frame of the existing Grant-in-Aid Participant Agreement.
6. If the participant ~~violates state law or~~ materially breaches the Grant-in-Aid Participant Agreement, the Department shall seek recovery of all funds granted and classify the participant as ineligible for Heritage ~~Funds grants~~ Grants for a period not to exceed five years.
7. The participant shall operate and maintain ~~grant-assisted~~ all Heritage Grant funded capital improvements and provide reasonable protection of any project improvements.
8. The participant sponsoring a third party or subcontractor is responsible for compliance with the Grant-in-Aid Participant Agreement provisions if the third party or subcontractor defaults.
9. The participant shall use awarded ~~grant~~ Heritage Grant funds solely for costs associated with approved project work incurred during the project period.
10. The project period is designated to be three years from the grant effective date unless otherwise agreed upon by the Department and the participant.
11. If a balance of awarded ~~grant~~ Heritage Grant funds is available upon completion of approved project elements, the participant may, with Department approval, develop additional scope elements.
12. The participant shall request amendments to accommodate additions or changes to the Grant-in-Aid Participant Agreement in writing, stating the need and rationale for the amendments.



13. The participant shall use equipment purchased with ~~grant~~ Heritage Grant funds for an approved public purpose for the useful life of the equipment, or surrender the equipment to the Department upon completion of the project, whichever comes first, if the equipment has an acquisition cost of more than \$500. If the equipment is sold, the participant shall pay the Department the amount of any resulting proceeds in the ratio equivalent to the funds provided for the purchase.
14. The participant shall ensure that the value of real property purchased with ~~grant~~ Heritage Grant funds assistance is appraised by an Arizona certified appraiser within one year before the purchase or lease according to the Uniform Standards of Professional Appraisal Practice. The Department has the authority to select an appraiser for an independent evaluation if the Department has evidence that the appraised value of real property is not accurate as submitted by the participant. The Department's acceptance of land conveyance documents is contingent upon approval by the ~~Game and Fish Commission and the governor~~ Governor.
15. The Department shall delay ~~grant~~ payment of Heritage Grant funds to a participant who fails to submit project-status reports as required in R12-4-712 until the participant has submitted all past due project-status reports.
16. The Department ~~has the authority under~~ shall include provisions in the Grant-in-Aid Participant Agreement that authorize the Department to conduct inspections to ensure compliance with all terms of the contract.
17. The participant shall not use ~~grant~~ Heritage Grant funds for the purpose of producing income. However, the participant may engage in income-producing activities incidental to the accomplishment of approved purposes if the participant uses the activities to further the purposes of the approved project or returns the income to the original funding source designated in the Grant-in-Aid Participant Agreement. The participant shall return funds remaining at the end of the project period to the Department.

#### **R12-4-712. Reporting and Record Requirements**

- A. A participant shall submit ~~biannual project status~~ project status reports to the Department covering activities for the project period within 30 days following the mid-year reporting period (ending June 30) and the end-of-the-



year reporting period (ending December 31), unless otherwise specified in the Grant-in-Aid Participant Agreement, including the Special Conditions attachment. The exact timing of the submission of reports to the Department will be as specified in the Grant-in-Aid Participant Agreement and the Special Conditions attachment. A participant shall include a separate section in each report covering all of the following subjects:

1. Progress in completing approved work;<sub>2</sub>
2. Itemized, cumulative project expenditures;<sub>2</sub> and
3. Anticipated delays and problems preventing on-time completion of the project.

B. A participant shall account for income or interest derived from project funds in the participant's report.

C. After a project is completed and for each year until the end of the term of public use, a participant shall certify compliance with the Grant-in-Aid Participant Agreement and shall complete a post-completion report form.

€ D. Each participant shall retain and shall contractually require each subcontractor to retain all books, accounts, reports, files, and other records relating to the acquisition and performance of the contract for a period of five years after the completion of the contract. The Department may inspect and audit participant and subcontractor records based on verified complaints or evidence that indicates the need for an inspection or audit at any time during the contract period or within five years after the completion of the contract upon reasonable notice. Upon the Department's request, a participant or subcontractor shall produce a legible copy of these records. The participant shall bear full responsibility for acceptable performance by a subcontractor under each subcontract. The participant may substitute ~~microfilm~~ electronic copies in place of the original records after project costs have been verified.